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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,034	08/29/2000	Brian Siegel	SNY-P4055.01	8387
24337	7590	12/21/2004	EXAMINER	
MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			BASHORE, ALAIN L	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/650,034	SIEGEL, BRIAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alain L. Bashore	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 October 2004.

2a) This action is **FINAL**.                                   2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-53 is/are pending in the application.

4a) Of the above claim(s) 16,29,31-38 and 45-53 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-15, 17-28, 30, 39-44 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 16, 29, 3138, 45-53 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5-7-04.

2. Applicant's election with traverse of claims 1-15, 17-28, 30, 39-44 in the reply filed on 5-7-04 is acknowledged. The traversal is on the ground(s) that classification overlap does not require undue burden. This is not found persuasive because loyalty points are not solely for credit transactions exclusively.

The requirement is still deemed proper and is therefore made FINAL.

3. This application contains claims drawn to an invention nonelected with traverse in Paper filed 5-7-04. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-15, 17-28, 30, 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al in view of Boesch et al.

Wong et al. disclose a method, corresponding system and storage medium of tracking online credit card usage by a user of a general purpose personal computing device operating as an internet communication device, comprising monitoring entries made on a point-of-sale device using a computer program that operates as a background process while a foreground process is also carried out (abstract; col.1, lines 22-30, col. 2, lines 10-15), wherein the foreground process comprises an internet communication process in which an online credit card transaction is being carried out by entry of information entries made by recognizing of a credit card number in the entries made (abstract; col. 1, lines 22-30; col. 2, lines 10-15); and upon recognizing an instance of a credit card transaction, automatically populating the web page with data stored in a user profile and storing information describing the credit card transaction in a database accessible by the POS device (col. 1, lines 44-55).

Wong et al. disclose the retrieval of the information describing the credit card transaction from the database via a point-of-sale device (col. 1, lines 22-30; col. 2, lines 10-15). Wong et al. discloses matching an entry with a stored sixteen digit credit card number (col. 12, lines 10- 15). Wong et al. discloses the information describing the credit card transaction comprises a monetary amount spent (col. 1, lines 63-67). Wong et al. discloses the information describing the credit card transaction comprises a date and time of the transaction (col. 1, lines 63-67). Wong et al. discloses the information describing the credit card transaction comprises a user identifier (col. 1, lines 36-43). Wong et al discloses the information describing the credit card transaction comprises a monetary amount spent, a date and time of the transaction, and a merchant name with which transaction was carried out (col. 1, lines 56-67). Wong et al. discloses carrying out a database function on the database. (See column 1, line 67 and column 2, lines 1-2). Wong et al. discloses the database function comprises totaling a monetary value of a plurality of transactions. (See column 1, lines 63-67). Wong et al. discloses that upon recognizing an instance of a credit card transaction, asking a user to verify confirm storage of information describing the credit card transaction prior to storing the information describing the credit card transaction in the database. (See column 12, lines 54-67). Wong et al. discloses granting access to the database to a creditor; permitting the creditor to charge a monetary value as a credit card transaction, and permitting the creditor to enter the credit card transaction into the database (abstract; col. 12, lines 65-67).

Wong et al does not disclose:

use of personal computing device as a point-of-sale device;  
the database is stored in a remote location and where the storage device is connected to a network file server.

Boesch et al. teach the use of personal computing device to conduct on-line purchase (abstract; fig. 1 and associated text).

It would have been obvious to one of ordinary skill in the art to include personal computing device such as a computer as a point-of-sale device. One of ordinary skill in the art would be motivated to do this because on-line shopping is very common and convenient.

Boesch et al. teach that a database is stored in a remote location such as the consumer information server connected to a network server (abstract; fig. 1 and associated text).

It would have been obvious to one of ordinary skill in the art to include personal computing device such as a computer as a point-of-sale device. One of ordinary skill in the art would be motivated to do this because on-line shopping is very common and convenient.

***Response to Arguments***

6. Applicant's arguments filed 10-1-04 have been fully considered but they are not persuasive.

The presence of transactions as shown in the prior art inherently includes the verification of the existence of a transaction *per se*.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alain L. Bashore  
Primary Examiner  
Art Unit 3624